IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN
S.B. CRIMINAL JAIL APPEAL NO.1409/2003

Abdul Hameed S/o Shri Siraj Shah
...Accused-Appellant
Versus
State of Rajasthan through P.P.
...Respondent

Date of Judgment ::: 22nd March, 2007

PRESENT
HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN

Shri Anshuman Saxena, Amicus Curiae for accused-appellant Abdul Hameed
Shri Jinendra Jain, P.P., for the State

By the Court:-

The Special Judge, S.C./S.T. (Prevention of Atrocities) Cases, Jaipur, vide its judgment and order dated 15.9.2003 convicted and sentenced the appellant as under:-

Under Section	*Sentenced*
307, IPC	**To undergo seven years rigorous imprisonment and a fine of Rs.10,000/- (Rupees ten thousand); in default of payment of fine, to further undergo three months additional simple imprisonment.**
324, IPC	**To undergo one year's rigorous imprisonment and a fine of Rs.1,000/- (Rupees one thousand); in default of payment of fine, to further undergo two months additional simple imprisonment.**

Both the sentences were ordered to run concurrently.

Exhibit P-4, a 'parcha bayan' of injured Mohammad Irfan (PW-3) was recorded in S.M.S. Hospital, Jaipur, on 22nd of March, 2002, by the In-charge, Police Station, Kotwali-Jaipur, wherein the injured alleged that accused Abdul Hameed inflicted a blow on his neck by 'kataar' i.e. sharp-edged-weapon, and further inflicted injuries on other parts of his body.

On the basis of the above 'parcha bayan', the police registered FIR No.115/2002 under Sections 307, 323, IPC. The injured Mohammad Irfan was medically examined and his injury-report is Exhibit P-8. The X-ray-report is Exhibit P-9, and his operation-record is Exhibit P-10. The injury-report of injured has been proved by PW-11 Dr. Sanjay Choudhary. The injury no.1 has been described as grievous and dangerous to life which was sufficient in the ordinary course of nature to cause death.

The learned counsel for the appellant contended that the appellant himself sustained two injuries on

his person for which no explanation has been furnished by the prosecution and further that there is no eye-witness in the case to corroborate the statement of injured Mohammad Irfan (PW-3), and, as such, the prosecution has failed to prove the case against the accused beyond all reasonable doubts, and he is entitled to be acquitted.

The learned counsel for the appellant lastly contended that the accused-appellant is in jail since 12th of June, 2002, and has already undergone the sentence of imprisonment for about four years and nine-and-half-month, and in case this court does not agree with his submission to acquit the appellant then at least his sentence of imprisonment may be reduced to a period of imprisonment already undergone by him.

The learned Public Prosecutor, on the other hand, supported the judgment and order passed by the trial court and contended that it is clear from the statement of injured himself that it was only the accused who inflicted the injury on his person by sharp-edged-weapon and his statement is corroborated

by the medical-evidence also. The injury no.1 has been described as sufficient in the ordinary course of nature to cause death, therefore there is no merit in the appeal and the same may be dismissed.

I have considered the submissions of the learned counsel for the parties and minutely scanned the impugned judgment as well as the record of the trial court.

During trial, the injured was examined as PW-3 and he, in his statement, specifically stated that the accused Abdul Hameed inflicted an injuries on his neck and other parts of the body. He identified the accused in the court also. The statement of PW-3 Mohammad Irfan is corroborated by the injury-report (Exhibit P-8), X-ray-report (Exhibit P-9) and operation-record of the injured Mohammad Irfan, PW-3, (Exhibit P-10). The statement of PW-3 Mohammad Irfan is further corroborated with the statements of PW-4 Mohammad Asraf, PW-5 Mohammad Nausad and PW-9 Mohammad Siraj. So far as two injuries sustained by the appellant are concerned, the same were simple in nature caused by

blunt object.

After considering the oral and documentary evidence, both, I am of the view that the prosecution has proved the case against the accused-appellant beyond all reasonable doubts. It was the accused who inflicted the injury by sharp-edged-weapon on the person of injured Mohammad Irfan. The trial court has considered the prosecution evidence, in detail, and rightly recorded a finding against the accused-appellant. I do not find any illegality or infirmity in the order of conviction passed by the trial court.

So far as the prayer of the learned counsel for the accused-appellant for reduction of sentence of imprisonment is concerned, looking to the nature of injury on the vital part of the body of the injured, I am not inclined to accept his prayer to reduce the sentence of imprisonment of the accused to a period of four years and nine-and-half-month already undergone by him, but, after considering all the facts and circumstances of the case, I think it fit and proper that the ends of justice will meet if sentence of six

years imprisonment is awarded against the appellant under Section 307, IPC.

In view of the above discussion, I do not find any merit in any of the contentions of the learned counsel for the accused-appellant, so far as the finding of the trial court relating to conviction of the accused-appellant is concerned. However, the sentence of imprisonment of the accused-appellant is reduced to a period of six years rigorous imprisonment only.

Consequently, the appeal of the appellant is partly-allowed. His conviction and sentence under Section 324, IPC, is maintained, but, while maintaining the conviction under Section 307, IPC, his sentence of imprisonment is reduced to a period of six years rigorous imprisonment.

(Narendra Kumar Jain) J.

//Jaiman//